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VIA HAND DELIVERY:

Mr. Gary Walsh
Executive Director
South Carolina Public Service Commission
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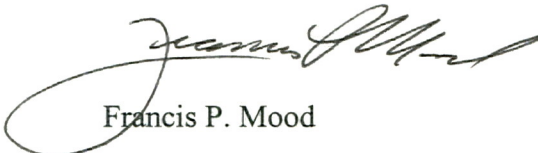
Re: BellSouth Section 58-9-576
Docket No. 1999-469-C

Dear Mr. Walsh:

Enclosed for filing with the Commission are 7 copies of a Motion to Strike being filed on Behalf of AT&T Communications of The Southern States, Inc. in the above-referenced matter. Counsel for parties of record are being served as indicated in the attached Certificate of Service.

If you have any questions or concerns regarding this filing, please do not hesitate to call.

Best regards,


Francis P. Mood

FPM:gpc
Enclosures

cc: Carolina N. Watson, Esquire
Elliott F. Elam, Jr., Esquire
Darra W. Cothran, Esquire
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POSTED
DW3-1000

ACCEPTED
Legal 293 3-10-00

BEFORE THE
PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 1999-469-C

In RE:)
)
Review of Proposed)
Guidelines for Rates)
Set by BellSouth)
Telecommunications, Inc.)
Pursuant to)
S.C. Code Ann. § 58-9-576)
_____)

MOTION TO STRIKE

S. C. PUBLIC SERVICE COMMISSION
RECEIVED
MAR 09 2000

S. C. PUBLIC SERVICE COMMISSION
RECEIVED
MAR 10 2000
UTILITIES DEPARTMENT

PLEASE TAKE NOTICE that AT&T Communications of the Southern States, Inc. ("AT&T"), pursuant to S.C. Code Ann. Regs. 103-840 (1976) and S.C. Rules (Evidence) 701 et. seq. (1999) hereby moves before the Public Service Commission of South Carolina ("Commission") for an order striking certain portions of the testimony of Alfonzo J. Varner, prefiled by BellSouth Telecommunications, Inc. ("BellSouth"). In support of this motion, AT&T respectfully shows:

1. On or about February 16, 2000, BellSouth prefiled the testimony of Alfonzo J. Varner in this docket.
2. In substantial measure, as particularly delineated hereinafter, Mr. Varner's testimony is simply a recitation of his interpretation of statutory provisions including a deducement of legislative intent without reference to any source of information other than the plain language of the statute. His conclusions constitute an opinion on the ultimate issue for Commission decision, i.e. statutory interpretation.

3. S.C. Code Regs 103-870 (1976) provides that in proceedings before it, the Commission shall apply the rules of evidence applied in civil cases in the Court of Common Pleas. S.C. Rules (Evidence) 701 and 702 emphasize that lay persons may not give expert opinions. Based on other provisions of his prefled testimony, Mr. Varner is not an attorney nor is he a member of a regulatory body responsible for interpreting implementing regulations.

4. Mr. Varner's testimony is, at best, legal argument which should be left to counsel, and any briefing requirements which the Commission may wish to impose.

5. Based on the foregoing, AT&T moves to strike the prefled testimony of witness Varner in the following particulars:

(a) Page 4: lines 1, beginning with "First", through 3, ending with "reasonable"; lines 13, beginning with "If", through 19; lines 21 through 22, ending with "statute";

(b) Page 5: lines 3 through 25;

(c) Page 6: lines 1 through 25;

(d) Page 7: lines 1 through 22;

(e) Page 8: lines 20, beginning with "The statute", through 25;

(f) Page 9: lines 1 through 25;

(g) Page 10: lines 1 through 25;

(h) Page 11: lines 1 through 15 (Page 10, line 25 through Page 11, line 15 contain assertions not relevant to this proceeding);

(i) Page 12: lines 15 and 16;

(j) Page 14: lines 8, beginning with "BellSouth's", through 12, ending with "customers".

6. As to Mr. Varner's Rebuttal Testimony, Page 1, lines 24 and 25 and Page 2, lines 2 through 15 contain legal conclusions regarding the responsiveness and relevance of testimony prefled by Mr. Tate and are likewise legal opinions expressed by Mr. Varner, as to which he is not qualified to testify.

WHEREFORE, AT&T respectfully moves that the foregoing provisions of Mr. Varner's prefled testimony (Direct and Rebuttal) be struck from the record.

AT&T COMMUNICATIONS OF THE
SOUTHERN STATES, INC.

By: 

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Its Attorneys

March 9, 2000

CERTIFICATE OF SERVICE

I do hereby certify that I have this 9th day of March, 2000 sent via U.S. Mail, postage prepaid, a true and correct copy of a **LETTER TO GARY E. WALSH, EXECUTIVE DIRECTOR THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA, DATED MARCH 9, 2000 AND A MOTION TO STRIKE BEING FILED ON BEHALF OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.** to the following:

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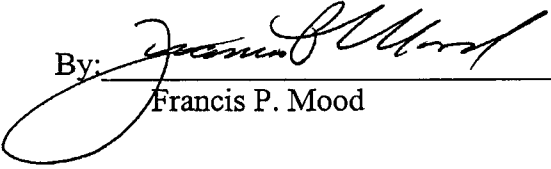
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